

license to practice chiropractic in the State of New Jersey and substantial civil penalties. Finally, the ALJ recommended that, based on the respondent's financial condition, the Board establish an installment plan schedule for the payment of the civil penalties.

The decision was reviewed by the Board at its March 25, 1999, meeting. Deputy Attorney General Lee Barry appeared on behalf of the petitioner. Neither the respondent nor his attorney, Robert A. Ferraro, Esquire, appeared on his behalf. Kevin B. Earle, Executive Director of the Board, presented testimony which revealed that both the respondent and Mr. Ferraro were properly served with notice of the Board's proceedings in this matter. The Deputy Attorney General provided the Board with a brief synopsis of the matter. Additionally, he enumerated the recommended monetary fines imposed on the respondent as follows: 1) \$82,000.00 civil penalties; 2) \$15,000.00 in expert costs; 3) \$4,200.00 in copying of documents costs; and 4) expenses incurred as a result of the attendance of certified shorthand reporters at the OAL proceedings. Hence, the Deputy Attorney General advised that the civil penalties and costs assessed the respondent totaled \$101,2000.00 plus the reporting expenses. He then urged the Board to affirm the Initial Decision.

The Board notes that, following the commencement of the administrative hearing, the respondent agreed to terminate his

contest of the allegations contained in the administrative complaint. The complaint alleged, among other acts of misconduct, that the respondent engaged in acts of fraud, dishonesty and misrepresentation, gross and repeated acts of negligence, professional misconduct and aiding and abetting of the unlicensed practice of chiropractic, during his thirteen (13) months of employment by Steven Verchow, D.C., and Alexander Kuntzevich, D.C., primarily at the Accident and Illness Center, in Passaic, New Jersey. Because of the serious and egregious nature of the respondent's activities to which he stipulated, including the rendering of chiropractic testing and treatment without medical necessity for the purpose of supporting litigation and inflating insurance claims, the Board concluded that a revocation of his license to practice chiropractic is an appropriate regulatory sanction.

Therefore, in accordance with the Board's review of and findings in this matter and for other good cause shown;

IT IS ON THIS 30th DAY OF June 1999 ORDERED:

1. The State Board of Chiropractic Examiners hereby affirms the February 3, 1999, Initial Decision issued in this matter and incorporates said decision herein by reference which is attached hereto. Therefore, the license of Robert LaDuca, D.C., to practice chiropractic in the State of New Jersey shall be and is hereby revoked effective July 1, 1999. No application for

reinstatement by the respondent shall be entertained by the Board for at least two (2) years from the date of the revocation.

2. Pursuant to the mandates in the affirmed Initial Decision, the respondent Robert LaDuca, D.C., shall pay civil penalties in the amount of \$82,000.00, in addition to the costs expended by the State, consisting of \$15,000.00 expert witness fees, \$4,200.00 copying costs and outstanding reporting costs, with interest as provided in the New Jersey Court Rule 4:42-11(a)(ii). Hence, the civil penalties and costs assessed against the respondent total \$101,200.00, plus the outstanding reporting costs.

Payment shall be made by certified check or money order as follows: an initial payment of \$25,000.00, paid within thirty (30) days of the filing of this Order. The remainder of the imposed civil penalties and costs, approximately \$76,200.00, shall be paid in thirty-six (36) monthly installments of \$2,200.00, plus the applicable amount of interest, made payable to the State of New Jersey. These installment payments shall be due on or before the fifteenth (15th) day of each month, commencing August 15, 1999, and shall be submitted to Kevin B. Earle, Executive Director of the Board of Chiropractic Examiners, at 124 Halsey Street, Sixth Floor, Post Office Box 45004, Newark, New Jersey 07101. Any failure to make the initial payment or any installment payment when due shall cause the entire remaining balance to become immediately due and payable without further notice.

NEW JERSEY STATE BOARD OF
CHIROPRACTIC EXAMINERS

By 
ANTHONY DeMARCO, D.C.
President

LaDuca



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
185 Washington Street
Newark, NJ 07102
(201)648-7245

**A copy of the administrative law
judge's decision is enclosed.**

**This decision was mailed to the parties
on FEB 3 1999**



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. BDS 1464-98

**IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF
ROBERT LaDUCA, D.C. TO PRACTICE
CHIROPRACTIC IN THE
STATE OF NEW JERSEY**

Lee Barry, Deputy Attorney General, for petitioner Board of Chiropractic Examiners (Peter Verniero, Attorney General of New Jersey, attorney)

Robert A. Ferraro, Esq., for respondent, Robert LaDuca, D.C. (Bruno & Ferraro, attorneys)

Record Closed: January 13, 1999

Decided: February 1, 1999

BEFORE EDITH KLINGER, ALJ:

On August 25, 1996, Deborah Poritz, the Attorney General of New Jersey, filed a Complaint with the Board of Chiropractic Examiners (Board), Division of Consumer Affairs (Board), seeking the suspension or revocation of the license of Robert LaDuca, D.C., to practice chiropractic in the State of New Jersey and other penalties or remedies as may be permitted or required by law, pursuant to the authority conferred

upon the Board by *N.J.S.A. 45:9-1 et seq.*, *N.J.S.A. 45:1-14 et seq.*, and related administrative regulations. Respondent filed his answer to the Verified Complaint on August 13, 1996.

On February 2, 1998, the Board transmitted the matter to the Office of Administrative Law (OAL) as a contested case pursuant to *N.J.S.A. 52:14B-1 to -15* and *N.J.S.A. 52:14F-1 to -13*. The hearing was scheduled for January 11, 12, 13, 14, 19, 20, 21, 22, 25, 26, 27, 28 and 29 and February 1, 2, 3, 4, 8, 9, 19, 11, 16, 17, 18, 19, 22, 23, 24, 25, and 26, 1999. The record closed on January 13, 1999, following the third day of hearing.

The Complaint charges respondent, in explicit factual detail, with the following violations:

COUNT I: LaDuca, employed by Steven Verchow, D.C. and Alexander Kuntzevich, D.C. (V & K), primarily at the Accident and Illness Center of Passaic owned and operated by V & K, rendered chiropractic services to V & K patients in an illusory and/or ineffective manner in violation of *N.J.A.C. 13:44E-1.1(b)*. Further, he failed to comply with the "Chiropractor of Record" requirements of *N.J.A.C. 13:44E-2.4*. This conduct constitutes dishonesty, fraud, deception, misrepresentation and the failure to comply with the provisions of an act or regulation administered by the Board. It is, therefore, grounds for the suspension or revocation of his license pursuant to *N.J.S.A. 45:1-21(b)* and (h), respectively.

COUNT II: LaDuca rendered chiropractic testing and treatments without medical necessity for the purpose of supporting litigation and inflating insurance claims. This conduct constitutes dishonesty, fraud, deception and misrepresentation and is grounds for the suspension or revocation of his license pursuant to *N.J.S.A. 45:1-21(b)*.

COUNT III: Respondent committed gross and repeated acts of negligence in the performance of diagnostic and treatment procedures. This conduct constitutes grounds for the suspension or revocation of his license pursuant to *N.J.S.A. 45:1-21(c)* and (d), respectively.

COUNT IV: LaDuca permitted the application of physical modalities on his patients by unlicensed individuals without adequate supervision. This constitutes the aiding and abetting of the practice of chiropractic without a

license in violation of *N.J.S.A. 45:9-14.5*. These are also acts of professional misconduct and provide grounds for the suspension or revocation of his license pursuant to *N.J.S.A. 45:1-21(e)*.

COUNT V: Respondent engaged in, directed, permitted and/or condoned the scheduling and performance of diagnostic testing on his patients at the treatment center and/or the referral of his patients to diagnostic entities and/or other health care professionals without adequate chiropractic or medical justification. Tests were regularly scheduled by unsupervised, unlicensed individuals using prescription or referral forms previously signed in blank by LaDuca. Alternatively, LaDuca directed, permitted, and/or condoned the unsupervised use of his facsimile signature stamp to sign prescription or referral forms. These prescriptions and referrals were without medical necessity for the purpose of supporting litigation and inflating insurance claims. This conduct constitutes dishonesty, fraud, deception, misrepresentation and professional misconduct, and is grounds for the suspension or revocation of his license pursuant to *N.J.S.A. 45:1-21(b)* and *(e)*, respectively.

COUNT VI: These unnecessary diagnostic tests and consultations resulted in unnecessary pain, suffering and exposure of patients to radiation. They also resulted in unnecessary expense to patients and third party payers. As an example, patients were caused substantial pain by the performance of unnecessary EMGs which call for the insertion of needles into patient's muscles. In many instances, the results of the diagnostic testing and/or consultations were not received in a timely manner and/or were disregarded in the formulation of treatment plans for patients. This course of action constitutes gross and repeated acts of negligence and is grounds for the suspension or revocation of respondent's license pursuant to *N.J.S.A. 45:1-21(c)* and *(d)*, respectively.

COUNT VII: LaDuca directed, permitted and/or condoned the performance of diagnostic tests at the V & K treatment centers in a gross and repeatedly negligent manner. As an example, thermography tests were performed at the V & K centers under conditions which LaDuca knew or should have known were not appropriate for the proper performance of these tests. He also knew or should have known that Robert O. Jamison, D.O., who prepared the reports for thermograms and SSEP tests, did not personally conduct or supervise the conduct of these tests and respondent did not personally communicate with Jamison regarding the tests and/or the test results. This conduct constitutes gross and repeated acts of negligence by respondent and is grounds for the suspension or revocation of his license pursuant to *N.J.S.A. 45:1-21(c)* and *(d)*, respectively.

COUNT VIII: Respondent directed, permitted and/or condoned unlicensed V & K treatment center staff to make chiropractic decisions, such as referring patients for diagnostic tests, including but not limited to, SSEPs, thermograms, computerized muscle tests, NCVs, and/or needle EMGs, without direct

supervision by a licensed chiropractor. This constitutes the aiding and abetting of the practice of chiropractic without a license in violation of *N.J.S.A. 45:9-14.5*. These are also acts of professional misconduct and provide grounds for the suspension or revocation of his license pursuant to *N.J.S.A. 45:1-21(e)*.

COUNT IX: Respondent engaged in, directed, permitted and/or condoned the indiscriminate issuance of TENS units and other durable medical equipment to patients by unlicensed V & K staff without regard to the patients' individual and particularized medical needs. This conduct was for the purpose of enhancing revenues to Neuro-Kinetic Diagnostics, a partnership wholly owned by V & K for the sale of durable medical equipment, and/or for bonuses to respondent and other V & K center staff and/or to bolster patients' personal injury litigation cases. In some cases, false entries were made in patient records to induce third-party payers to reimburse V & K for modalities allegedly performed related to the durable goods issued. This conduct constitutes dishonesty, fraud, deception, misrepresentation and professional misconduct, and is grounds for the suspension or revocation of his license pursuant to *N.J.S.A. 45:1-21(b)* and *(e)*, respectively. It further constitutes gross and repeated acts of negligence and is grounds for the suspension or revocation of respondent's license pursuant to *N.J.S.A. 45:1-21(c)* and *(d)*, respectively.

COUNT X: LaDuca engaged in, directed, permitted and/or condoned repeated violations of the regulations regarding patient records found at *N.J.A.C. 13:44E-2.2* and the "Chiropractor of Record" regulations found at *N.J.A.C. 13:44E-2.4*. Patient records were incomplete, false, retroactively altered, uninformative and unreliable. As examples, they did not contain findings on examinations, treatment plans, changes in patients' conditions or treatment plans, or conspicuously identify a chiropractor of record. They also failed to specify the portions of patients' bodies to which modalities were administered, or that modalities were administered by unlicensed, unsupervised staff. These violations constitute professional misconduct in violation of *N.J.S.A. 45:1-21(e)* and the failure to comply with the provisions of an act or regulation administered by the Board in violation of *N.J.S.A. 45:1-21(h)*. For this reason they are grounds for the suspension or revocation of respondent's license.

COUNT XI: Respondent engaged in, directed, permitted, and/or condoned the falsification of patient records in violation of *N.J.A.C. 13:44E-2.2(a)* which requires that accurate patient records be maintained by licensees of the Board. False information on patients' conditions and complaints were recorded in patient records. When entries in patient records did not correspond to information submitted to third-party payers with respect to actual treatments provided to patients, patient records were retroactively altered to correspond with the billings. The alterations rendered the patient records untrue and unreliable and could have resulted in severe detriment to the safety and welfare of patients. This conduct constitutes dishonesty, fraud, deception, misrepresentation and professional misconduct, and is grounds for the

suspension or revocation of LaDuca's license pursuant to *N.J.S.A. 45:1-21(b)* and (e), respectively. It further constitutes gross and repeated acts of negligence and is grounds for the suspension or revocation of respondent's license pursuant to *N.J.S.A. 45:1-21(c)* and (d), respectively. These violations also constitute the failure to comply with the provisions of an act or regulation administered by the Board in violation of *N.J.S.A. 45:1-21(h)*. For this reason they are all grounds for the suspension or revocation of respondent's license.

COUNT XII: Respondent directed, permitted or condoned attempts to coerce patients to return to V & K centers for treatment. Patients who tried to terminate treatment or missed scheduled appointments were sent letters threatening to forward reports to the their attorneys and/or insurance companies stating that they had no permanent injuries and there was no medical reason to continue with these cases. This conduct constitutes dishonesty, fraud, deception, misrepresentation and professional misconduct. and is grounds for the suspension or revocation of LaDuca's license pursuant to *N.J.S.A. 45:1-21(b)* and (e), respectively.

COUNT XIII: Respondent engaged in, directed, permitted and/or condoned the issuance of false and misleading narrative reports regarding his patients' histories, diagnoses, treatments, statuses and prognoses. LaDuca participated in or knew that V & K were providing reports, including medical information, to third-party payers without regard to the truth of the information contained therein. This conduct is in violation of the record-keeping requirements of *N.J.A.C. 13:44E-2.2(a)5* and (11). These reports were issued to defraud third-party payers and/or adverse parties in personal injury lawsuits. This conduct constitutes dishonesty, fraud, deception, misrepresentation and professional misconduct. and is grounds for the suspension or revocation of LaDuca's license pursuant to *N.J.S.A. 45:1-21(b)* and (e), respectively. It further constitutes repeated acts of negligence and is grounds for the suspension or revocation of respondent's license pursuant to *N.J.S.A. 45:1-21 (d)*. These violations also constitute the failure to comply with the provisions of an act or regulation administered by the Board in violation of *N.J.S.A. 45:1-21(h)*. For this reason they are all grounds for the suspension or revocation of respondent's license.

Following two days of testimony by Ingrid Catania, D.C., an employee of V & K who served as Associate Director of the Accident and Illness Center of Passaic where LaDuca was employed, and the introduction of substantial documentary evidence, respondent agreed that he would no longer contest any of the allegations of the complaint. His position is entirely consistent with the testimony of Catania and the documentary evidence.

He further agreed that he would accept a revocation of his license to practice chiropractic in the State of New Jersey and would not reapply for licensing for a period of two years. He also agreed to cooperate, as the State may require, in any other actions regarding the V & K clinics.

He then entered into the following stipulations with the petitioner:

1. LaDuca was employed by V & K between January 1992 and February 1993, a period of approximately thirteen months.
2. He received a salary of \$65,700 for his services and occasional small bonuses. He did not otherwise derive any economic benefits from the services provided by V & K. Specifically, all insurance reimbursement for claims was paid to V & K and LaDuca received none of it.
3. The number of patients treated by LaDuca during his employment was estimated at approximately 500. Both parties agree, based upon the records, that this estimate is a realistic one.
4. Almost all of the patients treated at V & K facilities were insured by the Joint Underwriters Association (JUA) and the Market Transition Facility (MTF). These companies brought litigation against LaDuca and the other V & K associates. The case was settled by the parties and LaDuca paid \$17,500 as his share of the settlement. There is, as a consequence, no issue of reimbursement remaining in the present proceeding.
5. Respondent is married and the father of two sons. His youngest child is autistic and requires therapy. LaDuca's wife is not employed. She carries the additional responsibilities associated with her son's therapy in addition to her other family duties.

6. LaDuca is presently licensed to practice chiropractic in Maryland. He will lose his Maryland license based upon this disciplinary action in New Jersey.
7. He is not practicing in New Jersey. At the present time, his income from his Maryland practice is \$200,000 a year. When he is no longer able to practice, he will sell his practice and live on the proceeds until he is able to find another way to make a living.
8. LaDuca does not contest the cost to the State of \$15,000 for its expert witness and \$4,200 for the cost of copying documents.

In addition to the revocation of his license, pursuant to *N.J.S.A. 45:1-25*, LaDuca is subject to civil penalties of not more than \$2,500 for each separate first offense and payment of costs for the use of the State.

Since the number of patients involved, 500, is so high and LaDuca, as a salaried V & K employee, received no benefit from the acts alleged other than a small bonus above his salary, penalties in this matter will be calculated on a per-patient rather than a per-incident basis. For this reason, I **FIND** that respondent is liable for penalties for five-hundred first offenses in this matter

It was also assumed that not all violations were committed equally for all five-hundred patients and not all violations were of equal weight. Based upon this consideration, the penalties were imposed in a two-tiered system with the first three-hundred violations subject to a slightly higher penalty than the remaining two hundred. It was further taken into consideration, (a) that LaDuca is the sole support of his family and will lose his source of income without having received any significant financial benefit from the acts committed, (b) that there are family circumstances which prevent his wife from making any meaningful contribution to the family income, and (c) that, in the aggregate, the total of the penalties imposed should serve as sanctions for the acts committed but not be in an amount which will devastate LaDuca and his family.

Based upon the above, I **CONCLUDE** that LaDuca's license to practice chiropractic in the State of New Jersey should be revoked, and no application for reinstatement should be entertained by the Board for a period of two years from the date of revocation.

I further **CONCLUDE** that a civil penalty in the amount of \$175 for each offense should be imposed for the first 300 offenses; this will amount to a penalty of \$52,000. I further **CONCLUDE** that a civil penalty in the amount of \$150 for each offense should be imposed for the remaining 200 offenses; this will amount to an additional penalty of \$30,000. Accordingly, I **CONCLUDE** that LaDuca is subject to a total civil penalty of \$82,000 for all 500 violations. It is **RECOMMENDED**, based upon respondent's financial condition, that the Board establish a schedule for the payment of this penalty.

I **CONCLUDE**, based upon respondent's settlement with the JUA and the MTF, no further restitution is appropriate.

I **CONCLUDE** that LaDuca is subject to costs for the use of the State in the amount of \$15,000 for its expert witness, \$4,200 for the copying of documents, and expenses incurred as a result of the attendance of certified shorthand reporters at the proceedings before the Office of Administrative Law on January 11, 12 and 13, 1999.

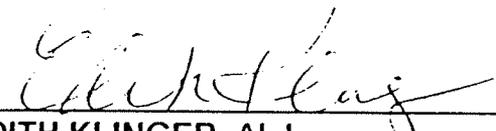
Based upon the above, it is **ORDERED** that Robert LaDuca's license to practice chiropractic in the State of New Jersey be revoked and that he pay civil penalties in the amount of \$82,000 and costs under the same terms and conditions set forth in the opinion above.

I hereby **FILE** my initial decision with the **BOARD OF CHIROPRACTIC EXAMINERS** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF CHIROPRACTIC EXAMINERS**, which by law is authorized to make a final decision in this matter. If the Board of Chiropractic Examiners does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen (13) days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **EXECUTIVE DIRECTOR, BOARD OF CHIROPRACTIC EXAMINERS, P.O. Box 45004, Newark, New Jersey 07101**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

January 1, 1999
DATE


EDITH KLINGER, ALJ

Receipt Acknowledged:

5/2/99
DATE


BOARD OF CHIROPRACTIC EXAMINERS

Mailed to Parties:

FEB 3 1999
DATE
md


OFFICE OF ADMINISTRATIVE LAW

APPENDIX

Witnesses

For Petitioner:

Ingrid Catania, D.C.

For Respondent:

Robert LaDuca, D.C.

Exhibits

- P-1 No Exhibit
- P-2 Professional Contractual Agreement, Catania
- P-3 Professional Contractual Agreement, LaDuca
- P-4 Blank Travel Card
- P-5 Fee Slips, March 26, 1992
- P-6 Fee Slips, April 27, 1992
- P-7 Fee Slips, April 2, 1992
- P-8 Fee Slips, November 4, 1992
- P-9 Fee Slips, November 25, 1992
- P-10 No Exhibit
- P-11 No Exhibit
- P-12 Heating Pad
- P-13 No Exhibit
- P-14 Fee Slips, June 8, 1992
- P-15 Fee Slips, June 11, 1992
- P-16 Partnership Agreement, Associated Health Services, April 5, 1991
- P-17 Travel Cards, patient Z.A.
- P-18 Travel Cards, patient W.M.

- P-19 Travel Cards, patient M.R.
- P-20 Travel Cards, patient S.L.
- P-21 Travel Cards, patient D.P.
- P-22 Travel Cards, patient V.L.
- P-23 Travel Cards, patient M.D.
- P-24 Travel Cards, patient Y.F.
- P-25 Travel Cards, patient Elvia I.
- P-26 Fee Slip, patient Elvia I., October 12, 1992
- P-27 Travel Cards, patient Eliza I.
- P-28 Fee Slip, patient Eliza I., October 16, 1992
- P-29 Travel Cards, patient G.R.
- P-30 Fee Slip, patient G.R., October 16, 1992
- P-31 Travel Cards, patient N.N.
- P-32 Fee Slip, patient N.N., October 16, 1992
- P-33 Travel Cards, patient F.L.
- P-34 Fee Slip, patient F.L., September 14, 1992
- P-35 Travel Cards, patient I.G.
- P-36 Fee Slip, patient I.G., September 14, 1992
- P-37 Travel Cards, patient S.F.
- P-38 Fee Slip, patient S.F., October 12, 1992
- P-39 Travel Cards, patient L.F.
- P-40 Fee Slip, patient L.F., September 14, 1992
- P-41 Narrative Report and Progress Report Form Book
- P-42 Yellow Post-it Label from Form Book
- P-43 Travel Cards, patient B.W.
- P-44 Letter to B.W., dated May 23, 1992
- P-45 Three Fee Slips, patient B.W, June 1 and September 29, 1992 and
January 27, 1993
- P-46 TENS Unit File, patient B.W.
- P-47 Clinic Bills, patient B.W.

- P-48 Advanced Thermographic Imaging File, patient B.W.
- P-49 Associated Health Services File, patient B.W.
- P-50 Neuro-Kinetic Diagnostics File, patient B.W.
- P-51 Dan W. Parkinson, M.D. Reports, patient B.W., 5 dates
- P-52 Narrative Report Circle Sheet, patient B.W.
- P-53 Narrative Report, patient B.W., April 20, 1993
- P-54 Three DMG Reports and Related Documents
- P-55 Incomplete Complaint to N.J. Department of Insurance, Chiropractic Consumer Complaints, patient B.W.
- P-56 X-Ray Work Sheets, patient B.W.
- P-57 Prescription for Northfield Imaging Services, by LaDuca for patient B.W.
- P-58 Discharge Sheet for B.W., February 10, 1993
- P-59 Travel Cards, patient J.P.
- P-60 Drs. Rozenberg and Herman, report for patient J.P.
- P-61 Travel Cards, patient P.C.
- P-62 Fee Slip, patient P.C., May 11, 1992
- P-63 Drs. Rozenberg and Herman, report for patient P.C., June 2, 1992
- P-64 TENS Unit File, patient P.C.
- P-65 Advanced Thermographic Imaging File, patient P.C.
- P-66 Associated Health Services File, patient P.C.
- P-67 Neuro-Kinetic Diagnostics folder, patient P.C.
- P-68 Dan W. Parkinson, M.D.. Reports, patient P.C., February 27, 1992 and March 12, 1992
- P-69 DMG File, patient P.C.
- P-70 Prognosis Portion of a Narrative Report before the Progress Report Form Book
- P-71 Final Narrative Report, patient P.C.
- P-72 Letter from Attorneys for patient P.C.
- P-73 Bills From V & K clinic to P.C.'s Insurance Carrier
- P-74 Travel Cards, patient D.H.

- P-75 DMG Reports, patient D.H.
- P-76 Report, Harry D. Citronenbaum, M.D., patient D.H.
- P-77 Advanced Thermographic Imaging File, patient D.H.
- P-78 Northern Diagnostics Reports, patient D.H.
- P-79 Prognosis Portion of Narrative Report Circle Sheet, patient D.H.
- P-80 Narrative Report, patient D.H.
- P-81 Travel Cards, patient R.D.
- P-82 Advanced Thermographic Imaging File, patient R.D.
- P-83 Associated Health Services File, patient R.D.
- P-83a DMG Reports, patient R.D., 5 reports
- P-84 Travel Cards, patient C.D.
- P-85 Drs. Rozenberg and Herman, Report, patient C.D.
- P-86 Associated Health Services File, patient C.D.
- P-87 Northern Diagnostics File, patient C.D.
- P-88 DMG Reports, patient C.D., 5 reports.
- P-89 Travel Cards, patient A.D.
- P-90 Drs. Rozenberg and Herman. Report, patient A.D.
- P-91 Northfield Imaging Center. Report, patient A.D.
- P-92 Advanced Thermographic Imaging File, patient A.D.
- P-93 Associated Health Services File. patient A.D.
- P-94 Northern Diagnostics File. patient A.D.

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY

By: August T. Lembo
Deputy Attorney General
Division of Law
124 Halsey Street, 5th Floor
P.O.B. 45029
Newark, New Jersey 07102
Tel. No. (201) 648-4876

FILED

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NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

ORIGINAL

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

ROBERT LA DUCA, D.C.
LICENSE NO. MC 3411

TO PRACTICE CHIROPRACTIC IN THE
STATE OF NEW JERSEY

: Administrative Action
:
:
:
: NOTICE OF HEARING AND
: NOTICE TO FILE ANSWER

TO: Robert LaDuca, D.C.
6188 Oxon Hill Road - Suite400
Oxon Hill, Maryland 20745

TAKE NOTICE that a Complaint, copy annexed hereto has been made to the New Jersey State Board of Chiropractic Examiners to consider the matter of the suspension or revocation of your license to practice chiropractic pursuant to the authority conferred upon the Board by N.J.S.A. 45:9-41.6 et seq., N.J.S.A. 45:1-14 et seq., laws pertinent to your profession and related administrative regulations. The Board requires you to file an answer to the above charge within ten (10) days from service of the Complaint. You may file an answer by mail to the address below.

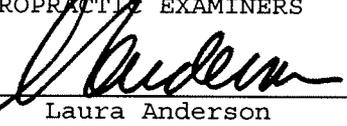
An admission that the Complaints correct will indicate that you do not contest the charges stated, thus rendering unnecessary any hearing in this proceeding. Your case will then be presented to the Board of Chiropractic Examiners together with any written matter you may submit with your plea in alleged mitigation of penalty, for a determination as to whether you license to practice should be suspended or revoked or a lesser sanction imposed and whether monetary penalties shall be assessed and, if so, the amount thereof pursuant to

the authority conferred upon the Board by N.J.S.A. 45:9-41.6 et seq. and N.J.S.A. 45:1-14 et seq.

A denial of the Complaint will result in a formal hearing being conducted at a date, time and place to be determined by the New Jersey Board of Chiropractic Examiners which, upon notice to you, will hear the Complaint or refer the matter to the Office of Administrative Law. Adjournments will not be granted except upon timely written application to the Board and costs incurred as a result thereof may be taxed to you. You may appear at the hearing either in person or by attorney or both and you shall be afforded an opportunity to make defense to any or all of the charges.

Failure to respond to this Notice of Hearing and Notice to File an Answer or failure to appear as set forth herein may result in the matter being considered in your absence. A decision rendered by the Board may affect your privilege to practice your licensed profession in this State.

NEW JERSEY STATE BOARD OF
CHIROPRACTIC EXAMINERS

By: 

Laura Anderson
Executive Director

DATED:

KINDLY ADDRESS AN ORIGINAL AND ONE COPY OF ALL CORRESPONDENCE TO:

NEW JERSEY STATE BOARD OF CHIROPRACTIC EXAMINERS
124 HALSEY STREET, 6TH FLOOR
NEWARK, NEW JERSEY 07102

WITH A COPY TO:

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY
ATTN: AUGUST T. LEMBO
DEPUTY ATTORNEY GENERAL
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FILED

APR 25 1998

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY

NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

By: August T. Lembo
Deputy Attorney General
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ORIGINAL

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC EXAMINERS
OAL DKT. NO.:

_____	:	
IN THE MATTER OF THE SUSPENSION	:	Administrative Action
OR REVOCATION OF THE LICENSE OF	:	
	:	COMPLAINT
ROBERT LA DUCA, D.C.	:	
LICENSE NO. MC 3411	:	
	:	
	:	
TO PRACTICE CHIROPRACTIC IN THE	:	
STATE OF NEW JERSEY	:	
_____	:	

Deborah T. Poritz, Attorney General of New Jersey, by August T. Lembo, Deputy Attorney General, with offices located at the Division of Law, 124 Halsey Street, 5th Floor, Newark, New Jersey 07102, by way of Complaint says:

ALLEGATIONS COMMON TO ALL COUNTS

1. Complainant Attorney General of New Jersey is charged with enforcing the laws of the State of New Jersey pursuant to N.J.S.A. 45:17A-4 and is empowered to initiate administrative disciplinary proceedings against persons licensed by the Board of Chiropractic Examiners pursuant to N.J.S.A. 45:1-14 et seq.
2. The New Jersey State Board of Chiropractic Examiners is empowered with the duty and responsibility of regulating the practice of chiropractic in the State of New Jersey pursuant to N.J.S.A. 45:9-41.4 et seq. and N.J.S.A. 45:1-14 et seq.
3. Respondent, Robert LaDuca, D.C. (hereinafter, "Respondent") is the holder of License No. MC 3411 with an address at 6188 Oxon Hill Road - Suite

400, Oxon Hill, Maryland 20745 and has been licensed to practice chiropractic in the State of New Jersey at all times relevant hereto and particularly since in or about October 1, 1987.

4. Steven Verchow, D.C. (hereinafter "Dr. Verchow") is the holder of License No. MC01305 with offices at 374 Forest Avenue, Paramus, New Jersey 07652, and has been licensed to practice chiropractic in the State of new Jersey at all times relevant hereto.

5. Alexander Kuntzevich, D.C. (hereinafter "Dr. Kuntzevich") is the holder of License No. MC01451 with offices at 360 Kinderkamack Road, Oradell, New Jersey 07642 and has been licensed to practice chiropractic in the State of New Jersey at all times relevant hereto.

6. Doctors Verchow and Kuntzevich (hereinafter "Drs. V & K") owned or maintained various clinics (hereinafter "treatment centers") including but not limited to the following, at all relevant times, and particularly from in or about 1987 through about 1993:

A. Accident and Illness Center of Passaic, located at 200 Gregory Avenue, Passaic, New Jersey (hereinafter the "Passaic treatment center").

B. Paterson-Bergen Chiropractic Associates, located at 650 Broadway, Paterson, New Jersey (hereinafter the "Paterson treatment center").

C. Accident and Illness Center of Perth Amboy, located at 255 Smith Street, Perth Amboy, New Jersey (hereinafter the "Perth Amboy treatment center").

D. Accident and Illness Center of Newark located at 90-A Broadway, Newark, New Jersey (hereinafter the "Newark treatment center").

E. Bergen-Hudson-Passaic Chiropractic Center, located at 5300 Bergenline Avenue, West New York, New Jersey (hereinafter the "West New York treatment center").

7. Drs. V & K owned or maintained various entities for the purported purposes of rendering diagnostic and/or medical consulting services and/or furnishing durable medical equipment (hereinafter "diagnostic entities") at all relevant times; these clinics included, but are not be limited to, the following:

A. Associated Health Services, located at 74 Passaic Avenue, Passaic, New Jersey and 625/635 Broadway, Paterson, New Jersey.

B. Advanced Thermographic Imaging, located at 74 Passaic Avenue, Passaic, New Jersey and 625/635 Broadway, Paterson, New Jersey.

C. Neuro-Kinetic Diagnostics, located at 74 Passaic Avenue, Passaic, New Jersey and 625/635 Broadway, Paterson, New Jersey.

D. Northern Diagnostics, located at 74 Passaic Avenue, Passaic, New Jersey.

8. Drs. V & K employed for various periods of time at least fifteen chiropractic physicians (hereinafter, the "Associates"), licensed to practice chiropractic by the Board in the State of New Jersey, purportedly to offer diagnostic and/or chiropractic treatment services at the treatment centers. Said Associates were commonly directed by Drs. V & K to implement certain prescribed diagnostic and treatment protocols in the rendering of chiropractic care to patients.

9. Respondent was one of the Associates employed by Drs. V & K and was employed primarily at Accident and Illness Center of Passaic from in or about January 1992 until in or about March 1993, but may have also occasionally provided services at one or more of the other treatment centers.

10. Drs. V & K employed for various periods of time, since in or about early 1987, various persons who were not licensed chiropractors, to perform secretarial, clerical, record-keeping, telemarketing, public relations, managerial and/or other services at the treatment centers and/or on behalf of the diagnostic entities.

11. The overwhelming majority of the patients treated at the treatment centers by Respondent were or claimed to have been injured in motor vehicle accidents.

12. Drs. V & K established the "Verchow and Kuntzevich method of chiropractic practice, patient relations and office administrative management and procedure." This method was one of the premises upon which Drs. V & K entered into employment contract agreements with Associates, including Respondent.

13. Respondent utilized forms, known as "travel cards," to record diagnoses, treatment and/or other patient information.

14. Drs. V & K caused to be issued over their signatures, "Attending Physician's Reports" which were issued to obtain insurance reimbursement and which set forth what were certified to be accurate statements including, among other things, the diagnoses and the chiropractic services rendered to patients in the treatment centers by Respondent and other Associates.

15. In many instances, the signatures of Drs. V & K were preprinted on the Attending Physician's Reports, including on the certification portion of the forms, prior to the insertion of particularized patient information on the forms.

16. Drs. V & K caused to be issued, over their signatures, "Narrative Reports" concerning various aspects of the chiropractic care of the patients at the treatment centers, including patients treated by Respondent. These Narrative Reports included, among other things, the conditions, symptoms, progress, results of orthopedic and neurological examinations, results of various diagnostic tests, diagnoses and/or prognoses of the patients.

17. Pursuant to N.J.A.C. 13:44E-2.4(a), in effect since August 19, 1991, each patient in a chiropractic facility is required to have a chiropractor of record who shall remain primarily responsible for assuring the proper implementation of the chiropractic services to be rendered to such patient regardless of whether the services are rendered by the chiropractor of record or by any other person rendering chiropractic services or ancillary treatment to the patient.

18. Pursuant to N.J.A.C. 13:44E-2.4 (f), in effect since August 19, 1991, any licensee found to have rendered services in violation of N.J.S.A. 45:1-21 and the owner of the faculty in which the licensee rendered such services shall be jointly and severally responsible for any restoration of patient fees as may be ordered by the Board.

COUNT I

RESPONDENT RENDERED CHIROPRACTIC SERVICES IN THE V&K TREATMENT CENTERS IN AN ILLUSORY AND/OR INEFFECTIVE MANNER AND FAILED TO PERFORM CHIROPRACTIC DIAGNOSTIC EXAMINATIONS APPROPRIATE TO THE PRESENTING PATIENTS.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. From in or about January 1992 until in or about March 1993, Respondent engaged in acts and practices which constituted and/or aided, abetted and/or facilitated the repeated rendering of chiropractic services in an illusory, indiscriminate and/or ineffective manner. Entities owned by Drs. V & K charged for these services. Examples of such conduct include, but are not limited to, the following:

A. Initial chiropractic examinations and/or reexaminations of Respondent's patients were performed in a very short period of time, often in as few as three to five minutes in an illusory, indiscriminate and/or ineffective manner using only techniques and/or tests of short duration without regard to the amount of time actually needed to perform proper examinations.

B. Chiropractic, orthopedic and/or other tests requiring shorter periods of time were repeatedly used by the Respondent, and tests requiring longer periods of time were avoided in order to speed the examination process. When so administered in an abbreviated manner, said tests resulted in unreliable, inconclusive and/or inaccurate diagnostic findings, not supportive of subsequent diagnostic and treatment courses taken with respect to patients treated by Respondent.

C. In many instances, Respondent made findings and/or diagnoses using the terms "disk wedge," "disk wedging" and/or "disk displacement" regarding his patients who received x-rays. To the extent the findings and/or diagnoses of "disk wedge," "disk wedging" and/or "disk displacement" were intended to connote diagnostically significant disk bulging or disk herniation, then there were repeatedly insufficient chiropractic or medical indications in

the patients' overall records to support such conclusions. To the extent those findings and/or diagnoses meant diagnostically insignificant conditions common to most or all patients and/or to most or all human beings, then the use of the terms was misleading and/or fraudulent.

D. Respondent repeatedly avoided using in his findings and/or diagnoses the recognized but less serious chiropractic finding of "sprain/strain; "instead, more serious chiropractic findings were made regarding Respondent's patients, even though, in many cases, sufficient chiropractic indications were lacking to support the more serious findings.

E. In many instances, Respondent recorded on travel cards that his patients demonstrated a lesser range of motion than actually existed. These false and/or misleading range of motion findings helped to serve as the justification for additional chiropractic treatments and/or for findings of permanent injury in order to help meet verbal threshold requirements and/or to enable patients' counsel to seek greater bodily injury awards. One practice utilized to have a finding of this limited range of motion was to record a hitch in the range as the extent of the range of motion.

F. The progress notes utilized by Respondent on patients' travel cards included a code system whereby

"1" denoted "much better/no complaints",

"2" denoted "doing fair/doing better",

"3" denoted "little improvement",

"4" denoted "same/no change",

"5" denoted "worse",

"6" denoted "much worse" and

"7" denoted "new condition".

In many instances, without regard to the actual conditions of patients, Respondent placed "3" or "4" on in the spaces provided on the travel cards to record the medical status of patients on particular daily visits. This practice contributed to substantially flawed patient records which made them unreliable

in rendering proper ongoing diagnosis and treatment and/or in assessing the medical progress of Respondent's patients.

G. Diagnoses and/or medical complaints of Respondent's patients were noted on the travel cards without adequate descriptions of the details of those diagnoses and/or complaints. The entries regarding these diagnoses and complaints were typically undated. Moreover, these entries were not typically supplemented over time to correspond with changes in his patients' conditions.

H. In many instances, Respondent rendered chiropractic adjustments by use of an "activator," an instrument which is recognized by some in the chiropractic community as a proper tool for performing adjustments, but which must be used by properly trained persons in an appropriate manner. However, Respondent failed to use the activator in an appropriate manner and instead used this device as a means of reducing the amount of time spent performing adjustments on his patients.

I. In many instances, particularly in or after June 1992, Respondent indicated on travel cards that he performed "neuromuscular reeducation," a therapeutic procedure. However, in many instances, Respondent did not perform this procedure and/or performed this procedure in an improper and/or illusory manner.

i. In many instances, Respondent's patients purportedly received this procedure nearly every visit in or after June 1992 without regard to medical need.

ii. In the overwhelming majority of cases, this purported procedure of neuromuscular reeducation was not performed on Respondent's patients prior to June 1992. This procedure was purportedly performed on Respondent's patients in or after June 1992 primarily to increase medical fees charged by the V&K treatment centers.

J. In many instances, including but not limited to the following cases, improper or illusory neuromuscular reeducation was performed by Respondent:

F.B.
P.C.
H.D.
E.F.
J.U.
B.W.

K. The modalities of heat treatments, electric muscle stimulation and/or traction were repeatedly performed on Respondent's patients without allowing sufficient time for the modalities to have the effect customarily and normally required in the utilization of these modalities. These modalities and not others were utilized because they could be applied without Respondent's attendance so as to further reduce the amount of time Respondent would spend with his patients.

L. In many instances, Respondent's patients were scheduled for five or six visits per week during the initial weeks of treatment without regard to medical need.

M. In many instances, Respondent failed to discharge patients even if he believed or had reason to believe that maximum benefit had been received from chiropractic treatment.

3. As a result of the above stated illusory, indiscriminate and/or improperly performed chiropractic services and/or diagnostic procedures, diagnoses on patients were repeatedly unreliable and therefore inconclusive or inaccurate in that they were overly broad, all-encompassing, and/or not pertinent and particularized to the individual patients being examined. In addition, treatments rendered by Respondent were ineffective and/or not tailored to meet patients' individual and particularized needs. Furthermore, in rendering treatments on or after August 19, 1991, Respondent failed to comply with N.J.A.C. 13:44E-2.4.

4. The illusory, indiscriminate and ineffective performance of chiropractic diagnostic examinations constitutes a violation of N.J.A.C. 13:44E-1.1(b) in that the examinations were not appropriate to the presenting patient.

5. All of the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21 (b) and/or (h) for the revocation or suspension of Respondent's license to practice in this State.

COUNT II

RESPONDENT RENDERED CHIROPRACTIC TESTING AND TREATMENTS
WITHOUT MEDICAL NECESSITY.

1. Complainant repeats the previous allegations as if fully set forth herein.
2. In many instances, the frequency of Respondent's patients' chiropractic treatments was established according to uniform protocol without regard to the individual and particularized medical needs of his patients.
3. The primary purposes for the uniform protocol governing the frequency of treatments included to enhance revenues to Drs. V & K and/or to support his patients' inflated damage claims in automobile negligence personal injury actions.
4. The uniform protocol regarding frequency of office visits, in conjunction with the billing practices of the treatment centers, was also designed to hamper the ability of insurance companies to schedule timely independent medical examinations for the purpose of monitoring their insureds' treatment plans and continuing care needs.
5. Respondent engaged in, directed, permitted and/or condoned a practice whereby patients, who received notices that they should undergo independent medical examinations required by insurance companies, were advised to cancel appointments shortly before the scheduled examination, thus requiring a new appointment to be scheduled some time in advance and enabling the patients to receive additional unnecessary treatments and/or diagnostic tests.
6. Patient treatments were rarely if ever terminated as a result of Respondent's determination that there was no further need for treatment; rather, treatments typically ceased due a termination of insurance coverage and/or because of his patients' failure to return to the treatment center.
7. In many instances, x-rays were taken of Respondent's patients, primarily to justify the formulation of diagnostic findings of "disk wedging" and/or "disk displacement," rather than for appropriate chiropractic and medical reasons.

8. In many instances, expensive diagnostic tests were performed on Respondent's patients without any defined chiropractic justification or explanation, primarily to: a) raise the amount of billings to be paid by third party payers to the diagnostic entities owned by Drs. V & K ; b) increase bonus revenues to Respondent and/or treatment center staff; and/or c) to support personal injury litigation by the patients.

9. In many instances, the results of diagnostic tests ordered for the patients treated by Respondent had little or no effect and/or rational relationship to his patients' individual and particularized medical needs.

10. The rendering of chiropractic treatment services and/or the referral for diagnostic tests, not for valid chiropractic or medical purposes, but rather to support litigation and to justify inflated insurance claims constitutes dishonesty, fraud, deception and misrepresentation, and, therefore, grounds pursuant to N.J.S.A. 45:1-21(b) for the revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT III

GROSS AND REPEATED ACTS OF NEGLIGENCE IN DIAGNOSTIC AND TREATMENT PROCEDURES.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. Respondent engaged in, directed, permitted and/or condoned the illusory, indiscriminate and ineffective performance of chiropractic services and the unnecessary performance of and/or referral for diagnostic tests which constituted gross and repeated acts of negligence by Respondent. In many instances, Respondent's selection of which examination procedures and/or diagnostic tests to perform and/or to exclude was made without regard to the patients' individual and particularized needs, but rather was based on the length of time required to perform such procedures and/or diagnostic tests with the goal of minimizing the amount of time which Respondent spent with each patient.

3. Modalities were typically applied to Respondent's patients without regard to a bona fide determination based on his patients' individual and particularized medical needs.

A. During each office visit, Respondent's patients typically received an adjustment and also two modalities, including traction, electric muscle stimulation and/or heat. In many instances, heat was one of the selected modalities because heat was typically applied by treatment center staff simultaneously with either traction or electric muscle stimulation, thereby reducing the amount of time individual patients would need to remain in treatment rooms.

B. In some instances, heat was applied to Respondent's patients even under circumstances where it was contraindicated and/or when consultants to whom Respondent referred patients recommended the application of other modalities.

C. The duration of time regarding the application of modalities to Respondent's patients was determined without regard to the patients' individual and particularized needs. The length of application of the modalities in the Paterson and Passaic treatment centers was governed by a light system which artificially regulated and minimized the length of time during which modalities were applied.

4. Similarly, the length of time that examinations and chiropractic adjustments were performed on Respondent's patients was determined without regard to the patients' individual and particularized needs. In many instances, Respondent performed adjustments on patients with an activator, using improper and/or abbreviated techniques to reduce the time for adjustments.

5. The rendering of chiropractic diagnostic or treatment services in a grossly and repeatedly negligent manner constitutes grounds pursuant to N.J.S.A. 45:2-21(c) and (d) for the revocation or suspension of Respondent's license to practice chiropractic in the State.

COUNT IV

RESPONDENT PERMITTED THE APPLICATION OF PHYSICAL MODALITIES ON HIS PATIENTS BY UNLICENSED INDIVIDUALS WITHOUT ADEQUATE SUPERVISION.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. Respondent directed, permitted and/or condoned the procedure whereby unlicensed assistants applied physical modalities without proper supervision, including the placing of heat pads, electric muscle stimulation and/or traction without adequate supervision by a licensed chiropractor.

3. Directing, permitting and/or condoning the application of such modalities in a chiropractic office by unlicensed assistants not acting under proper supervision constitutes aiding and abetting the practice of chiropractic without a license in violation of N.J.S.A. 45:9-14.5 and, therefore, professional misconduct.

4. All the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21(e) for revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT V

RESPONDENT ENGAGED IN, DIRECTED, PERMITTED AND/OR CONDONED THE PERFORMANCE OF DIAGNOSTIC TESTING ON HIS PATIENTS AT THE TREATMENT CENTERS AND/OR THE REFERRAL OF HIS PATIENTS TO THE DIAGNOSTIC ENTITIES AND/OR TO OTHER HEALTH CARE PROFESSIONALS WITHOUT ADEQUATE CHIROPRACTIC OR MEDICAL JUSTIFICATION.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. From in or about August 1992 until in or about March 1993, Respondent engaged in, directed, permitted and/or condoned the referral of his patients for diagnostic testing, either at the treatment centers and/or by referral to the diagnostic entities and/or to other health care professional practices in which Drs. V & K had a financial interest, without adequate

chiropractic or medical justification. Examples of such unnecessary and/or excessive diagnostic testing include:

A. Respondent engaged in, directed, permitted and/or condoned the referral of his patients for Somatosensory Evoked Potential tests ("SSEPs") to be performed on his patients by Northern Diagnostics, a partnership which Drs. V & K wholly owned, without chiropractic or medical justification and/or without sufficient indication of clinical findings sufficient to justify the performance of these SSEPs, the charges for which often exceeded \$2,000.

B. Respondent engaged in, directed, permitted and/or condoned the referral of his patients for thermograms to be performed by Advanced Thermographic Imaging, a partnership which Drs. V & K wholly owned, without chiropractic or medical justification and/or without sufficient indication of clinical findings sufficient to justify the performance of these thermograms, the charges for which were typically in excess of \$1,200. Moreover, Respondent's patients frequently received heat, treatments and/or other chiropractic procedures at the treatment centers at such times prior to the performance of the thermogram which were commonly known to adversely affect the accuracy of the tests.

C. Respondent engaged in, directed, permitted and/or condoned the referral of his patients for computerized grip and/or muscle testing to be performed by Neuro-Kinetic Diagnostics, a partnership which Drs. V & K wholly owned, without chiropractic or medical justification and/or without sufficient indication in the patient records to justify the performance of these computerized tests, the charges for of which were typically \$60 per grip test and \$250 per muscle test. In many instances, individual patient records reflect that they received multiple series of tests, with charges for these tests exceeding \$1,000.

D. Respondent engaged in, directed, permitted and/or condoned the referral of his patients for nerve conduction velocity tests (hereinafter "NCVs") and/or needle electromyographies (hereinafter "needle EMGs") and/or medical consultations to be performed by Associated Health Services, an

entity which Drs. V & K owned with Harry D. Citroenbaum, M.D., without chiropractic or medical justification and/or without sufficient indication in the patient records to justify the performance of these tests, the charges for which frequently exceeded \$2,000.

E. Respondent engaged in, directed, permitted and/or condoned the referral of his patients for dental examinations to be performed by Drs. Barry K. Rozenberg, D.D.S. and/or Michael R. Herman, D.D.S. without chiropractic or medical justification and/or without sufficient indication in the patient records to justify referral of these patients. Drs. Rozenberg and Herman paid Drs. V & K a \$500 per day "rental" fee for use of the treatment center facilities to perform dental examinations.

F. Respondent engaged in, directed, permitted and/or condoned the referral of his patients for orthopedic examinations to be performed by Garden State Orthopaedics and Sports Medicine and/or Dan W. Parkinson, M.D., without chiropractic or medical justification and/or without sufficient indication in the patient records to justify referral of these patients. Garden State Orthopaedics and Sports Medicine and/or Dan W. Parkinson, M.D. paid Drs. V & K "rental" fees for use of the treatment center facilities to perform orthopedic examinations.

G. Respondent engaged in, directed, permitted and/or condoned the referral of his patients for magnetic resonance imaging tests (hereinafter "MRIs") without sufficient chiropractic or medical justification and/or without sufficient indication in the patient records to justify such referral.

3. In many instances in which these diagnostic tests were performed on Respondent's patients, the results were not received by the treatment centers and/or reviewed by Respondent until one month or more after the tests had been performed, a period far in excess of the response time normally the case when tests are meaningfully relied upon by a treating physician.

4. In many instances, there is no indication that the results of these diagnostic tests had any meaningful effect on the treatment plan of the

patients who were tested. These tests were ordered for Respondent's patients without any articulated chiropractic or medical justification.

A. In many instances, scheduling was performed by unlicensed staff with no discretion exercised by the Respondent, and in such cases, Respondent, without use of independent chiropractic judgment, signed prescription and/or referral forms regarding these diagnostic tests, or alternately, Respondent directed, permitted and/or condoned the use of his signature stamp to "sign" these prescription and/or referral forms.

5. Given the inadequate initial diagnostic examinations and the uniform treatment programs not reflecting any adaptation to individual patients, Respondent's referral of his patients for diagnostic tests and/or consultations was not made for any valid clinical purpose.

6. The indiscriminate referral by Respondent of his patients for these diagnostic tests and/or consultations without sufficient chiropractic or medical justification but rather for the primary purposes of increasing fees and revenues to Drs. V & K and/or bolstering his patients' personal injury litigation constitutes the use of dishonesty, fraud, deception and misrepresentation in violation of N.J.S.A. 45:1-21(b).

7. All of the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21(b) and (e) for the revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT VI

REFERRALS FOR THE DIAGNOSTIC TESTS AND THE MANNER OF USE
OR NON-USE OF THE RESULTS CONSTITUTED GROSS AND REPEATED
ACTS OF NEGLIGENCE.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. In some instances, Respondent's indiscriminate referral of his patients for the diagnostic tests and consultations caused unnecessary pain and suffering to his patients and/or unnecessary exposure to radiation to his patients and/or unnecessary financial expense to his patients and to third party

payers. For example, Respondent's patients were caused unnecessary pain and suffering by indiscriminate referral by Respondent to Associated Health Services which performed needle EMGs, requiring the insertion of needles into patients' bodies and thereby causing them substantial pain.

3. In many instances, Respondent failed to secure the results of these diagnostic tests and/or consultations in a timely manner and/or failed to make use of the results to formulate a treatment plan.

4. Respondent's conduct in this manner constituted gross and repeated acts of negligence.

5. All of the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21[©] and (d) for the revocation or suspension of Respondent's license to practice chiropractic in the State.

COUNT VII

DIAGNOSTIC TESTS PERFORMED IN THE TREATMENT CENTERS ON RESPONDENT'S PATIENTS WERE RENDERED IN A GROSSLY AND REPEATEDLY NEGLIGENT MANNER.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. Respondent directed, permitted and/or condoned diagnostic tests to be performed on his patients in the treatment centers in a gross and repeatedly negligent manner.

A. For example, thermogram tests were performed on Respondent's patients on premises at the treatment centers under conditions which were not appropriate for the proper performance of these tests, and Respondent knew or should have known as a chiropractic licensee, that this was the case.

B. Respondent knew or should have known that Robert W. Jamison, D.O., who authored the reports of tests results regarding SSEPs and thermograms, did not examine Respondent's patients, and/or did not personally conduct and/or supervise the conduct of these tests. Moreover, the Respondent did not personally communicate with Dr. Jamison regarding the tests and/or the test results.

3. All the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21[©] and (d) for the revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT VIII

RESPONDENT DIRECTED, PERMITTED AND/OR CONDONED THE ORDERING OF TESTS BY INDIVIDUALS NOT LICENSED AS CHIROPRACTORS AND PERMITTED AND/OR CONDONED UNLICENSED PERSONS TO MAKE CHIROPRACTIC DECISIONS WHICH CONSTITUTED THE PRACTICE OF CHIROPRACTIC.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. Respondent directed, permitted and/or condoned unlicensed treatment center staff to refer patients for diagnostic tests, including, but not limited to, SSEPs, thermograms, computerized muscle tests, NCVs, and/or needle EMGs without direct supervision by a licensed chiropractor.

3. Respondent directed, permitted and/or condoned unlicensed treatment center staff to make chiropractic decisions, which conduct by Respondent constituted aiding and abetting the unlicensed practice of chiropractic.

4. Directing, permitting and/or condoning such referrals and such chiropractic decisions constitutes aiding and abetting the unlicensed practice of chiropractic and, therefore, professional misconduct.

5. All the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21(e) for revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT IX

RESPONDENT ENGAGED IN, DIRECTED, PERMITTED AND/OR CONDONED THE PRACTICE OF ISSUING TENS UNITS AND OTHER DURABLE MEDICAL EQUIPMENT WITHOUT CHIROPRACTIC OR MEDICAL NEED AND IN A REPEATEDLY GROSSLY AND REPEATEDLY NEGLIGENT MANNER

1. Complainant repeats the previous allegations as if fully set forth herein.

2. In many instances, from in or about August 1992 until in or about March 1993, Respondent engaged in, directed, permitted and/or condoned the issuance of durable medical equipment, such as TENS units, cervical pillows, heating pads, cervical collars, lumbar cushions and/or support belts, for patients without regard to their individual and particularized medical needs, but rather for the primary purposes of enhancing revenues to Neuro-Kinetic Diagnostics, a partnership wholly owned by Drs. V & K, which issued such durable medical equipment, and/or for bonuses benefitting Respondent and/or other treatment center staff.

3. In some instances, Respondent engaged in, directed, permitted and/or condoned the practice whereby false entries were made on patients' travel cards relative to the issuance of TENS Units. For example, in some instances, false entries were made on travel cards regarding the modalities received by Respondent's patients in order to increase the likelihood that third-party payers would provide reimbursement for modalities performed and/or TENS Units issued and/or related chiropractic services performed on the same day. In such instances, the treatment centers often charged insurers for modalities and/or procedures which were not performed, such as traction and/or "Tens Evaluation Application" (also referred to as "TEA").

4. Respondent engaged in, directed, permitted and/or condoned the indiscriminate issuance of such durable medical equipment for the primary purposes of increasing revenue for Drs. V & K, and/or increasing bonus revenues to Respondent and/or other treatment center staff, and/or bolstering patients' personal injury litigation cases; this constitutes dishonesty, fraud, deception and/or misrepresentation.

5. All the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21(b), (c), (d) and (e) for revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT X

RESPONDENT ENGAGED IN, DIRECTED, PERMITTED AND/OR
CONDONED REPEATED VIOLATIONS OF THE BOARD'S RULES
REGARDING PATIENT RECORDS AND CHIROPRACTOR OF RECORD,
N.J.A.C. 33:44E-2.2 AND N.J.A.C. 33:44E-2.4
RESPECTIVELY.

1. Complainant repeats the previous allegations as if fully set forth herein.
2. Contrary to and in violation of the provisions of N.J.A.C. 33:44-2.2(a), Respondent directed, permitted and/or condoned practices which constituted or resulted in the failure to keep records and/or the maintenance of illusory, unreliable and/or substantially undifferentiated records regarding, among other things, patients' pertinent case history, findings on appropriate examination, diagnosis/analysis, treatment plan, the name of the licensee or other person rendering the treatment (such as unlicensed persons providing modalities), notations of significant changes in patients' condition and/or significant changes in treatment plan, and/or periodic notation of patients' medical status irrespective of whether significant changes had occurred.
3. Contrary to and in violation of the provisions of N.J.A.C. 13:44E-2.4(a), Respondent failed to have a chiropractor of record designated for each of his patients who were given chiropractic care on or after August 19, 1991.
4. Contrary to and in violation of the provisions of N.J.A.C. 33:44E-2.4(b), Respondent failed to provide for the conspicuous identification of the chiropractor of record on the patient records regarding his patients who were given chiropractic care on or after August 19, 1991.
5. With respect to his patients who received chiropractic care on or after August 19, 1991, Respondent failed to comply with the requirement that a new chiropractor of record must review the patient's history and chiropractic records, examine the patient, if necessary, and either develop a new treatment plan or continue the pre-existing plan, in violation of N.J.A.C. 13:44E-2.4(e),

6. All of the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21(e) and (h) for revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT XI

RESPONDENT ENGAGED IN, DIRECTED PERMITTED AND/OR
CONDONED THE FALSIFICATION OF RECORDS.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. Respondent engaged in, directed, permitted and/or condoned the falsification of patients' records including, but not limited to, the falsification of records to appear to be contemporaneous treatment and diagnostic records when such records were not contemporaneous.

3. For example, when, in late 1992 or early 1993, due to data input and/or other error, information submitted to third party payers regarding patient records did not correspond and/or correlate with the actual treatments rendered to a significant number of patients as reflected in the treatment records, Respondent changed records of his patients' treatments for the purpose of having the information correspond with the computerized records submitted to third party payers.

4. This conduct constitutes a violation of N.J.A.C. 13:44E-2.2(a) which requires that accurate patient records be maintained by licensees of the Board.

5. In any cases where the patient was truly injured, such a change in records could be severely detrimental to the safety and welfare of the patient. This conduct therefore constituted gross and repeated acts of negligence. This conduct also constituted dishonesty, fraud deception or misrepresentation and professional misconduct.

6. All the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21(b), (c), (d), (e) and (h) for revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT XII

RESPONDENT DIRECTED, PERMITTED OR CONDONED ATTEMPTS MADE TO COERCE RESPONDENT'S PATIENTS TO RETURN FOR TREATMENT; SUCH CONDUCT CONSTITUTES PROFESSIONAL MISCONDUCT, DISHONESTY, FRAUD, DECEPTION AND/OR MISREPRESENTATION.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. In many instances where Respondent's patients terminated treatment and/or did not come for scheduled appointments, the treatment center issued written correspondence and/or made telephone calls to those patients in a manner which harassed the patients for terminating treatments and/or for not returning for appointments. In some instances, the treatment center issued written communications which threatened patients that, if they did not return for treatments, reports would be forwarded to the patients' attorneys and insurance companies stating that such patients had no permanent injuries and that there was no medical reason to continue with the patients' case.

4. Such communications were directed to Respondent's patients to coerce them to return for additional treatments.

5. Such conduct constitutes the use of dishonesty, fraud, deception, misrepresentation and/or professional misconduct.

6. All the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21(b) and (e) for the revocation or suspension of Respondent's license to practice chiropractic in this State.

COUNT XIII

RESPONDENT ENGAGED IN, DIRECTED, PERMITTED AND/OR CONDONED THE ISSUANCE OF FALSE AND MISLEADING NARRATIVE REPORTS OF REGARDING HIS PATIENTS' DIAGNOSES, TREATMENTS, STATUS AND PROGNOSSES.

1. Complainant repeats the previous allegations as if fully set forth herein.

2. Narrative chiropractic reports were issued in the cases of many of Respondent's patients. These reports were purportedly dictated but not read by "Dr. Steven Verchow, Dr. Alexander Kuntzevich and Associates."

3. In many instances, Respondent participated in the production of these reports and included information regarding his patients' medical conditions without regard to whether such information was true or false.

4. In many instances, narrative reports to third party payers contained prognoses, derived from forms, without regard to whether such prognoses were true or false.

5. In many instances, narrative reports to third party payers were attached to Attending Physician's Reports, which served as the requests for payment with respect to third party payers. The Attending Physician's Reports regarding Respondent's patients contained false and/or misleading information which, in many cases, was included to increase the likelihood of payment by third party payers. For example,

A. In some instances, the Attending Physician's Reports falsely stated that Respondent's patients suffered from permanent injuries.

B. In some instances, the Attending Physician's Reports stated that Respondent's patients did not previously suffer from the same or similar conditions when in fact the patients had prior automobile accidents, treated at the V & K treatment centers for those prior accidents/or and were diagnosed as suffering from the same or similar conditions.

C. The Attending Physician's Reports for Respondent's patients stated that Dr. Verchow and/or Dr. Kuntzevich were the attending physicians, when in fact Drs. V & K neither examined nor treated the vast majority of these patients.

6. In many instances, narrative reports to Respondent's patients' attorneys indicated that there was permanent injury suffered by patients without regard to whether such information was true or false.

7. These narrative reports regarding Respondent's patients were false and misleading. They did not accurately reflect diagnoses or patient

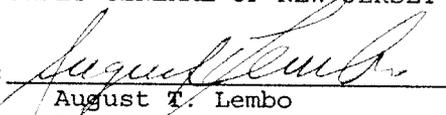
status as required by N.J.A.C. 13:44E-2.2(a)5 and 11; the primary purposes of these reports were to defraud third party payers and/or adverse parties in personal injury lawsuits. This constitutes dishonesty, fraud, deception and misrepresentation.

8. All the foregoing constitutes grounds pursuant to N.J.S.A. 45:1-21(b), (d), (e) and (h) for revocation or suspension of Respondent's licensee to practice chiropractic in this State.

WHEREFORE, it is respectfully demanded that the State Board of Chiropractic Examiners:

1. Suspend or revoke the license theretofore issued to Respondent to practice chiropractic in the State of New Jersey;
2. Issue an Order directing Respondent to cease, desist and refrain from the practice of chiropractic in the State of New Jersey;
3. Assess such monetary penalties for each separate unlawful act as set forth in Counts I through XIII above;
4. Order payment of costs, including investigative costs, fees for expert witness and costs of trial, including transcripts;
5. Issue an Order directing Respondent to restore any monies to any party or governmental entity aggrieved by the unlawful acts or practices of Respondent in the course of such conduct; and
6. Order such and further relief as the Board of Chiropractic Examiners shall deem just and appropriate.

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY

By: 
August T. Lembo
Deputy Attorney General

DATED: 4/22/96

Filed
@ 8/13/96

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Attorneys for Respondent
Robert LaDuca, D.C.

ORIGINAL

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC
EXAMINERS

-----	:	
IN THE MATTER OF THE	:	
SUSPENSION OR REVOCATION	:	
OF THE LICENSE OF	:	ADMINISTRATIVE ACTION
	:	
ROBERT LA DUCA, D.C.	:	
LICENSE NO. MC 3411	:	ANSWER TO COMPLAINT
	:	
TO PRACTICE CHIROPRACTIC	:	
IN THE STATE OF NEW JERSEY	:	
-----	:	

Respondent, Robert LaDuca, D.C. hereby responds to the Plaintiff's Complaint as follows:

1. Respondent is without knowledge sufficient to form a belief as to the truth of the allegations contained in paragraphs one and two.

2. Respondent admits the allegations of paragraph three.

3. Respondent is without knowledge sufficient to form a belief as to the truth of the allegations contained in paragraphs four, five, six, seven and eight.

4. Respondent admits the allegations of paragraph nine.

5. Respondent is without knowledge sufficient to form a belief as to the truth of the allegations contained in paragraphs ten, eleven and twelve.

6. Respondent admits the allegations of paragraph thirteen.

7. Respondent ~~is~~ without knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph fourteen, fifteen, sixteen, seventeen and eighteen.

COUNT I

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraphs two, three, four and five.

COUNT II

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies and/or is without knowledge sufficient to form a belief as to the truth of the allegations contained in paragraphs two, three and four.

3. Respondent denies the allegations of paragraph five.

4. Respondent denies and/or is without knowledge sufficient to form a belief as to the truth of the

allegations contained in paragraphs six, seven, eight and nine.

5. Respondent denies the allegations of paragraph ten.

COUNT III

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraph two, three, four and five.

COUNT IV

1. Respondent repeats his previous response as if set forth at length herein.

2. Respondent denies the allegations of paragraph two, three and four.

COUNT V

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraph two.

3. Respondent denies and/or is without knowledge sufficient to form a belief as to the truth of the allegations of paragraphs three and four.

4. Respondent denies the allegations of paragraphs five, six and seven.

COUNT VI

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraph two.

3. Respondent denies and/or is without knowledge sufficient to form a belief as to the truth of paragraph three.

4. Respondent denies the allegations of paragraphs four and five.

COUNT VII

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraphs two and three.

COUNT VIII

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraphs two, three, four and five.

COUNT IX

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraphs two, three, four and five.

COUNT X

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraph two.

3. Respondent is without knowledge sufficient to form a belief as to the truth of the allegations of paragraphs three, four and five.

4. Respondent denies the allegations of paragraph six.

COUNT XI

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent denies the allegations of paragraphs two, three and four.

3. Respondent denies and/or is without knowledge sufficient to form a belief as to the truth of the allegations of paragraph five.

4. Respondent denies the allegations of paragraph six.

COUNT XII

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent is without knowledge sufficient to form a belief as to the truth of the allegations of paragraph two, four and five.

3. Respondent denies the allegations of paragraph six.

COUNT XIII

1. Respondent repeats his previous responses as if set forth at length herein.

2. Respondent is without knowledge sufficient to form a belief as to the truth of the allegations of paragraph two.

3. Respondent denies the allegations of paragraph three and four.

4. Respondent is without knowledge sufficient to form a belief as to the truth of the allegations of paragraph five.

5. Respondent denies the allegations of paragraphs six, seven and eight.

FIRST SEPARATE DEFENSE

Any improper conduct was committed by third parties over whom this respondent had no control.

SECOND SEPARATE DEFENSE

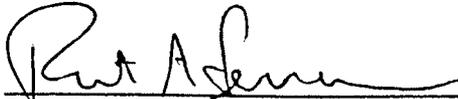
Respondent is being denied due process and equal protection with the law of the State and Federal Constitution.

WHEREFORE, Respondent, Robert LaDuca, D.C. respectfully requests that the within proceeding be dismissed.

BRUNO & FERRARO, ESQS.
Attorney for Respondent
Robert LaDuca, D.A.

DATED: August 13, 1996

BY:



ROBERT A. FERRARO, ESQ.